

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1727-PWS-E **TCEQ ID:** RN102678927 **CASE NO.:** 34849
RESPONDENT NAME: Lumberton Municipal Utilities District

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Lumberton MUD, 55 West Chance Road, Lumberton, Hardin County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received August 16, 2007, concerning a water outage and discolored water when service was restored. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney/SEP Coordinator: None</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p style="margin-left: 20px;">Respondent: Mr. Roger Fussel, District Manager, Lumberton Municipal Utilities District, P.O. Box 8065, Lumberton, Texas 77657</p> <p style="margin-left: 20px;">Mr. Nick Carter, President, Lumberton Municipal Utilities District, P.O. Box 8065, Lumberton, Texas 77657</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 16, 2007</p> <p>Date of Investigation Relating to this Case: August 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 10, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage that occurred on August 9, 2007 [30 TEX. ADMIN. CODE §§ 290.46(q)(1) and 290.122(a)(2)(A)].</p> <p>2) Failed to collect water samples for microbiological analysis from the affected portion of the distribution system before returning it to service [30 TEX. ADMIN. CODE §§ 290.46(q)(2) and 290.46(b) and TEX. HEALTH & SAFETY CODE 341.033(b)].</p>	<p>Total Assessed: \$900</p> <p>Total Deferred: \$180 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$720</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, develop and implement a standard operating procedure ensuring that special precautions are taken, and if necessary, boil water notices are issued in the event of low distribution system pressure, and water outages, and that bacteriological samples are taken to maintain the potability of the systems drinking water supply; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1000035



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	15-Oct-2007	Screening	23-Oct-2007	EPA Due	
	PCW	23-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lumberton Municipal Utilities District
Reg. Ent. Ref. No.	RN102678927
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	34849	No. of Violations	2
Docket No.	2007-1727-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeoduru
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes No change due to Average Performer classification.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$100 **0% Enhancement*** **Subtotal 6** \$0
Approx. Cost of Compliance \$150 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$750

OTHER FACTORS AS JUSTICE MAY REQUIRE 20% **Adjustment** \$150

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount \$900

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$900

DEFERRAL 20% Reduction **Adjustment** -\$180

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$720

Screening Date 23-Oct-2007

Docket No. 2007-1727-PWS-E

PCW

Respondent Lumberton Municipal Utilities District

Policy Revision 2 (September 2002)

Case ID No. 34849

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102678927

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 23-Oct-2007 Respondent Lumberton Municipal Utilities District Case ID No. 34849 Reg. Ent. Reference No. RN102678927 Media [Statute] Public Water Supply Enf. Coordinator Andrea Linson-Mgbeoduru Violation Number <input type="text" value="1"/>	Docket No. 2007-1727-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>																									
Rule Cite(s) <input type="text" value="30 Tex. Admin. Code §§ 290.46(q)(1) and 290.122(a)(2)(A)"/>																										
Violation Description <input type="text" value="Failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage. Specifically, a boil water notice was not issued within 24 hours of a water outage that occurred on August 9, 2007."/>																										
Base Penalty <input type="text" value="\$1,000"/>																										
>> Environmental, Property and Human Health Matrix																										
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td colspan="4"></td> <td>Percent <input type="text" value="0%"/></td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>						Percent <input type="text" value="0%"/>
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>> Programmatic Matrix																										
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"></td> <td>Percent <input type="text" value="25%"/></td> </tr> </tbody> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> 100% of the rule requirement was not meet. </div>	Falsification	Major	Moderate	Minor			x								Percent <input type="text" value="25%"/>										
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	x																									
				Percent <input type="text" value="25%"/>																						
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<input type="text" value="\$250"/>																										
Violation Events																										
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<table style="width: 100%;"> <tr> <td style="width: 20%; vertical-align: top;"> <i>mark only one with an x</i> </td> <td style="width: 30%;"> <div style="border: 1px solid black; padding: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div> </td> <td style="width: 50%;"></td> </tr> </table>		<i>mark only one with an x</i>	<div style="border: 1px solid black; padding: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div>																							
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Violation Base Penalty <input type="text" value="\$250"/>																										
<div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> One single event is recommended. </div>																										
Economic Benefit (EB) for this violation																										
Statutory Limit Test																										
Estimated EB Amount <input type="text" value="\$100"/>	Violation Final Penalty Total <input type="text" value="\$300"/>																									
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$300"/>																										

Economic Benefit Worksheet**Respondent** Lumberton Municipal Utilities District**Case ID No.** 34849**Reg. Ent. Reference No.** RN102678927**Media** Public Water Supply**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	10-Aug-2007	11-Aug-2007	0.0	\$0	\$100	\$100
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to provide all customers of the water supply with a proper boil water notification. The date required is the date the boil water notice should have been issued. The final date is the end of the 24 hour period in which the boil water notice was not issued.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 23-Oct-2007 Respondent Lumberton Municipal Utilities District Case ID No. 34849 Reg. Ent. Reference No. RN102678927 Media [Statute] Public Water Supply Enf. Coordinator Andrea Linson-Mgbeoduru Violation Number <input type="text" value="2"/> Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(q)(2) and 290.46(b) and Tex. Health & Safety Code § 341.033(b)	Docket No. 2007-1727-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>
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Violation Description	Failed to collect water samples for microbiological analysis from the affected portion of the distribution system before returning it to service. Specifically, during the investigation, it was discovered that the required bacteriological monitoring of water within the affected area was not done.
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Base Penalty	\$1,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	50%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					0%

Adjustment	\$500
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Adjustment	\$500
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Violation Events

Number of Violation Events	1	Number of violation days	1	
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mark only one with an x	daily	<input type="text"/>	Violation Base Penalty
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$0
	Violation Final Penalty Total
	\$600
This violation Final Assessed Penalty (adjusted for limits)	
\$600	

Economic Benefit Worksheet**Respondent** Lumberton Municipal Utilities District**Case ID No.** 34849**Reg. Ent. Reference No.** RN102678927**Media** Public Water Supply**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$50	9-Aug-2007	10-Aug-2007	0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to collect and test the bacteriological samples. The date required is the date the samples should have been taken. The final date is 24 hours after water service was restored to the customers.

Approx. Cost of Compliance

\$50

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600635585	Lumberton Municipal Utilities District	Classification: AVERAGE	Rating: 2.84
Regulated Entity:	RN102678927	LUMBERTON MUD	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	1000035
	WATER LICENSING		LICENSE	1000035
Location:	55 W CHANCE RD, LUMBERTON, HARDIN COUNTY, TX			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	October 17, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 15, 2002 to October 15, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Andrea Linson-Mgbeoduru		Phone:	512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 12/06/2002 (17024)
 - 2 11/04/2004 (338201)
 - 3 09/15/2006 (511617)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
- N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LUMBERTON MUNICIPAL
UTILITIES DISTRICT
RN102678927

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1727-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lumberton Municipal Utilities District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 55 West Chance Road in Lumberton, Hardin County, Texas (the "Facility") that has approximately 6,156 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 15, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Nine Hundred Dollars (\$900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Twenty Dollars (\$720) of the administrative penalty and One Hundred Eighty Dollars (\$180) is deferred contingent upon the Respondent's timely and satisfactory

compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage that occurred on August 9, 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.46(q)(1) and 290.122(a)(2)(A), as documented during an investigation conducted on August 20, 2007.
2. Failed to collect water samples for microbiological analysis from the affected portion of the distribution system before returning it to service, in violation of 30 TEX. ADMIN. CODE §§ 290.46(q)(2) and 290.46(b) and TEX. HEALTH & SAFETY CODE 341.033(b), as documented during an investigation conducted on August 20, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lumberton Municipal Utilities District, Docket No. 2007-1727-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 15 days after the effective date of this Agreed Order, develop and implement a standard operating procedure ensuring that special precautions are taken, and if necessary, boil water notices are issued in the event of low distribution system pressure, and water outages, and that bacteriological samples are taken to maintain the potability of the systems drinking water supply, as required by 30 TEX. ADMIN. CODE § 290.46.
- b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

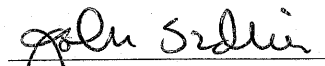
Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


3/5/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12/17/2007
Date

Nick CARTER
Name (Printed or typed)
Authorized Representative of
Lumberton Municipal Utilities District

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

